



General Assembly

January Session, 2005

Raised Bill No. 6609

LCO No. 3190

03190_____GAE

Referred to Committee on Government Administration and Elections

Introduced by:
(GAE)

AN ACT CONCERNING ETHICAL STATE CONTRACTING.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 4-250 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 As used in sections 4-250 to 4-252 and section 8 of this act:

4 (1) "Gift" has the same meaning as provided in section 1-79, except
5 that the [exclusion in subdivision] exclusions in subdivisions (9), (12)
6 and (15) of subsection (e) of said section 1-79 for, respectively, food or
7 beverage, a gift for the celebration of a major life event and anything
8 having a value of not more than ten dollars shall not apply;

9 (2) "Quasi-public agency", "public official" and "state employee"
10 have the same meanings as provided in section 1-79;

11 (3) "State agency" means any office, department, board, council,
12 commission, institution or other agency in the executive, legislative or
13 judicial branch of state government;

14 (4) "Large state contract" means an agreement or a combination or
15 series of agreements between a state agency or a quasi-public agency
16 and a person, firm or corporation, having a total cost to such state
17 agency or quasi-public agency, or resulting in revenue to the General
18 Fund or any other fund or account of the state or a quasi-public
19 agency, of more than five [hundred] thousand dollars in a calendar or
20 fiscal year, for (A) a project for the construction, alteration or repair of
21 any public building or public work, (B) services, including, but not
22 limited to, consulting and professional services, (C) the procurement of
23 supplies, materials or equipment, (D) a lease [,] or sale of an interest in
24 property, (E) a licensing arrangement, or (F) a grant. The term "large
25 state contract" shall not include a contract between a state agency or a
26 quasi-public agency and a political subdivision of the state;

27 (5) "Principals and key personnel" means officers, directors,
28 shareholders, members, partners and managerial employees; and

29 (6) "Participated substantially" means participation that is direct,
30 extensive and substantive, and not peripheral, clerical or ministerial.

31 Sec. 2. Section 4-251 of the general statutes is repealed and the
32 following is substituted in lieu thereof (*Effective from passage*):

33 (a) Between June 1, 2004, and June 30, 2006, no state agency or
34 quasi-public agency shall execute a large state contract unless the state
35 agency or quasi-public agency obtains:

36 (1) An affidavit from each person, firm or corporation submitting a
37 bid or proposal for such contract. Each such affidavit shall be
38 submitted with the bid or proposal and shall be signed by the official
39 of the person, firm or corporation that submits such bid or proposal.
40 Such affidavit shall attest to whether or not (A) such person, firm,
41 corporation, (B) any principals and key personnel of the person, firm
42 or corporation, who participated substantially in preparing the bid or
43 proposal, or (C) any agent of such person, firm, corporation or
44 principals and key personnel, who participated substantially in

45 preparing the bid or proposal, provided a gift during the two-year
46 period preceding the submission of such bid or proposal, to (i) any
47 public official or state employee of the state agency or quasi-public
48 agency soliciting bids or proposals for the contract, who participated
49 substantially in the preparation of the bid solicitation or request for
50 proposals for the contract, or (ii) any public official or state employee
51 of any other state agency, who has supervisory or appointing authority
52 over such state agency or quasi-public agency. The affidavit shall also
53 attest that no such principals and key personnel of the person, firm or
54 corporation or agent of such person, firm, corporation or principals
55 and key personnel knows of any action by the person, firm or
56 corporation to circumvent the requirements of this subdivision by
57 providing for any other principals and key personnel, official,
58 employee or agent of the person, firm or corporation to provide a gift
59 to any such public official or state employee. If any gift described in
60 this subdivision was provided, the affidavit shall include the name of
61 the recipient, a description of the gift and the value and approximate
62 date of the gift. The affidavit shall also disclose any campaign
63 contributions by principals or key personnel of the person, firm or
64 corporation, spouses of such principals or key personnel or a political
65 committee, as defined in section 9-333a, established by the person, firm
66 or corporation, to any candidate for state-wide office during the four-
67 year period preceding the submission of such bid or proposal;

68 (2) An affidavit from the person, firm or corporation awarded the
69 contract, at the time the contract is executed, and signed by the official
70 of the person, firm or corporation executing the contract. The affidavit
71 shall attest to whether or not gifts were provided by (A) such person,
72 firm, corporation, (B) any principals and key personnel of the person,
73 firm or corporation, who participated substantially in preparing the
74 bid or proposal or the negotiation of the contract, or (C) any agent of
75 such person, firm, corporation or principals and key personnel, who
76 participated substantially in preparing the bid or proposal or the
77 negotiation or award of the contract, between the date of the affidavit
78 under subdivision (1) of this subsection and the date of execution of

79 the contract, to (i) any public official or state employee of the state
80 agency or quasi-public agency soliciting bids or proposals for the
81 contract, who participated substantially in the preparation of the bid
82 solicitation or request for proposals for the contract or the negotiation
83 or award of the contract, or (ii) any public official or state employee of
84 any other state agency, who has supervisory or appointing authority
85 over such state agency or quasi-public agency. If any such gift was
86 provided, the affidavit shall include the name of the recipient, a
87 description of the gift and the value and approximate date of the gift.
88 The affidavit shall also disclose any campaign contributions by
89 principals or key personnel of the person, firm or corporation, spouses
90 of such principals or key personnel or a political committee, as defined
91 in section 9-333a, established by the person, firm or corporation, to any
92 candidate for state-wide office between the date of the affidavit under
93 subdivision (1) of this subsection and the date of execution of the
94 contract; and

95 (3) A certification by the official or employee of such state agency or
96 quasi-public agency who is authorized to execute said contract that the
97 selection of the most qualified person, firm or corporation was not the
98 result of collusion, the giving of a gift or the promise of a gift,
99 compensation, fraud or inappropriate influence from any person.

100 (b) Each affidavit or certification required under subsection (a) of
101 this section shall be sworn as true to the best knowledge and belief of
102 the person signing the affidavit, subject to the penalties of false
103 statement.

104 (c) No municipal official or employee shall be required to submit an
105 affidavit under subdivision (1) or (2) of subsection (a) of this section.

106 (d) Any bidder or proposer that does not submit an affidavit
107 required under subdivision (1) or (2) of subsection (a) of this section
108 shall be disqualified and the state agency or quasi-public agency shall
109 award the contract to the next highest ranked proposer or the next
110 lowest responsible qualified bidder or seek new bids or proposals.

111 (e) Notwithstanding the provisions of subsection (a) of this section,
112 a person, firm or corporation seeking a large state contract between
113 July 1, 2004, and June 30, 2006, which submits a gift affidavit in
114 accordance with the policy adopted by the Attorney General on
115 January 8, 2004, shall be deemed to comply with the requirements of
116 subdivisions (1) and (2) of subsection (a) of this section.

117 Sec. 3. Section 4-252 of the general statutes is repealed and the
118 following is substituted in lieu thereof (*Effective from passage*):

119 (a) On and after July 1, 2006, no state agency or quasi-public agency
120 shall execute a large state contract unless the state agency or quasi-
121 public agency obtains the written certifications and the affidavit
122 described in this section. Each such certification shall be sworn as true
123 to the best knowledge and belief of the person signing the certification,
124 subject to the penalties of false statement.

125 (b) The official or employee of such state agency or quasi-public
126 agency who is authorized to execute said contract shall certify that the
127 selection of the most qualified or highest ranked person, firm or
128 corporation was not the result of collusion, the giving of a gift or the
129 promise of a gift, compensation, fraud or inappropriate influence from
130 any person.

131 (c) The official of the person, firm or corporation awarded the
132 contract, who is authorized to execute the contract, shall certify:

133 (1) That no gifts were made between the date that the state agency
134 or quasi-public agency began planning the project, services,
135 procurement, lease or licensing arrangement covered by the contract
136 and the date of execution of the contract, by (A) such person, firm,
137 corporation, (B) any principals and key personnel of the person, firm
138 or corporation, who participated substantially in preparing the bid or
139 proposal or the negotiation of the contract, or (C) any agent of such
140 person, firm, corporation or principals and key personnel, who
141 participated substantially in preparing the bid or proposal or the

142 negotiation of the contract, to (i) any public official or state employee
143 of the state agency or quasi-public agency soliciting bids or proposals
144 for the contract, who participated substantially in the preparation of
145 the bid solicitation or request for proposals for the contract or the
146 negotiation or award of the contract, or (ii) any public official or state
147 employee of any other state agency, who has supervisory or
148 appointing authority over such state agency or quasi-public agency;

149 (2) That no such principals and key personnel of the person, firm or
150 corporation, or agent of such person, firm or corporation or principals
151 and key personnel, knows of any action by the person, firm or
152 corporation to circumvent such prohibition on gifts by providing for
153 any other principals and key personnel, official, employee or agent of
154 the person, firm or corporation to provide a gift to any such public
155 official or state employee; and

156 (3) That the person, firm or corporation made the bid or proposal
157 without fraud or collusion with any person.

158 (d) The official of the person, firm or corporation awarded the
159 contract, who is authorized to execute the contract, shall submit an
160 affidavit to the state agency or quasi-public agency, disclosing any
161 campaign contributions by principals or key personnel of the person,
162 firm or corporation, spouses of such principals or key personnel or a
163 political committee, as defined in section 9-333a, established by the
164 person, firm or corporation, to any candidate for state-wide office
165 during the four-year period preceding the submission of such bid or
166 proposal.

167 ~~[(d)]~~ (e) Any bidder or proposer that does not make the
168 certifications required under subsection (c) of this section or submit the
169 affidavit required under subsection (d) of this section shall be
170 disqualified and the state agency or quasi-public agency shall award
171 the contract to the next highest ranked proposer or the next lowest
172 responsible qualified bidder or seek new bids or proposals.

173 [(e)] (f) Each state agency and quasi-public agency shall include in
 174 the bid specifications or request for proposals for a large state contract
 175 (1) the date that the state agency or quasi-public agency began
 176 planning the project, services, procurement, lease or licensing
 177 arrangement to be covered by the contract, and (2) a notice of the
 178 certification and affidavit requirements of subsections (c), [and] (d) and
 179 (e) of this section.

180 Sec. 4. Subsection (c) of section 1-84 of the general statutes is
 181 repealed and the following is substituted in lieu thereof (*Effective from*
 182 *passage*):

183 (c) (1) No public official or state employee shall wilfully and
 184 knowingly disclose, for financial gain, to any other person, confidential
 185 information acquired by him in the course of and by reason of his
 186 official duties or employment and no public official or state employee
 187 shall use his public office or position or any confidential information
 188 received through his holding such public office or position to obtain
 189 financial gain for himself, his spouse, child, child's spouse, parent,
 190 brother or sister or a business with which he is associated.

191 (2) No public official or state employee having responsibilities in the
 192 awarding of contracts subject to competitive bidding shall wilfully and
 193 knowingly disclose confidential information acquired by the official or
 194 employee in the course of and by reason of his or her official duties or
 195 employment to any person that would result in such person having an
 196 advantage over other persons in the awarding of any such contract.

197 Sec. 5. Subsection (m) of section 1-84 of the general statutes is
 198 repealed and the following is substituted in lieu thereof (*Effective from*
 199 *passage*):

200 (m) No public official or state employee shall knowingly accept,
 201 directly or indirectly, any gift, as defined in subsection (e) of section 1-
 202 79, from any person the official or employee knows or has reason to
 203 know: (1) Is doing business with or seeking to do business with the

204 department or agency in which the official or employee is employed;
 205 (2) is engaged in activities which are directly regulated by such
 206 department or agency; or (3) is prequalified under section 4a-100. No
 207 person shall knowingly give, directly or indirectly, any gift or gifts in
 208 violation of this provision. For the purposes of this subsection, the
 209 ~~[exclusion]~~ exclusions to the term "gift" in ~~[subdivision]~~ subdivisions
 210 (9), (12) and (15) of subsection (e) of section 1-79 for, respectively, food
 211 or beverage, a gift for the celebration of a major life event and anything
 212 having a value of not more than ten dollars shall not apply.

213 Sec. 6. Section 1-84 of the general statutes is amended by adding
 214 subsection (p) as follows (*Effective from passage*):

215 (NEW) (p) No public official or state employee shall enter into a
 216 contract with any person who has a contract with the state or a quasi-
 217 public agency, if the official or employee participated substantially in
 218 the bidding or awarding of such contract.

219 Sec. 7. Section 1-81b of the general statutes is repealed and the
 220 following is substituted in lieu thereof (*Effective from passage*):

221 The State Ethics Commission shall develop, and annually update, a
 222 plain language summary of state ethics laws concerning (1) persons,
 223 firms and corporations submitting bids or proposals for state contracts,
 224 and (2) state contractors. Such state ethics laws shall include, but not
 225 be limited to, the provisions of part I of chapter 10 and sections 4-250
 226 to 4-252, inclusive, as amended by this act. The commission shall
 227 publish said summary on the commission's web site.

228 Sec. 8. (NEW) (*Effective October 1, 2005*) (a) A state agency or quasi-
 229 public agency that is seeking a contractor for a large state contract shall
 230 provide the summary of state ethics laws developed under section 1-
 231 81b of the general statutes, as amended by this act, to any person
 232 seeking such contract. Each such person shall promptly affirm to the
 233 agency, in writing, (1) receipt of the summary, and (2) that key
 234 employees of such person have read and understood the summary and

235 agree to comply with its provisions. No state agency or quasi-public
236 agency shall accept a bid for a large state contract without such
237 affirmations.

238 (b) Each large state contractor shall provide the summary of state
239 ethics laws described in subsection (a) of this section to all
240 subcontractors and consultants on the contract and obtain an
241 affirmation from each subcontractor and consultant that (1) such
242 subcontractor and consultant has received the summary, and (2) key
243 employees of such subcontractor and consultant have read and
244 understood the summary and agree to comply with its provisions. The
245 contractor shall promptly submit such affirmations to the contracting
246 state agency or quasi-public agency. Any failure of the contractor to
247 submit such affirmations in a timely manner shall be cause for
248 termination of the contract.

249 Sec. 9. Section 1-89 of the general statutes is repealed and the
250 following is substituted in lieu thereof (*Effective from passage*):

251 (a) Any person who intentionally violates any provision of this part
252 shall (1) for a first violation, be guilty of a class A misdemeanor, except
253 that, if such person derives a financial benefit of one thousand dollars
254 or more as a result of such violation, such person shall be guilty of a
255 class D felony, and (2) for a second or subsequent violation, be guilty
256 of a class D felony, provided no person may be found guilty of a
257 violation of subsection (f) or (g) of section 1-84 and bribery or bribe
258 receiving under section 53a-147 or 53a-148 upon the same incident, but
259 such person may be charged and prosecuted for all or any of such
260 offenses upon the same information.

261 (b) The penalties prescribed in this part shall not limit the power of
262 either house of the legislature to discipline its own members or
263 impeach a public official, and shall not limit the power of agencies or
264 commissions to discipline their officials or employees.

265 (c) (1) The Attorney General may bring a civil action against any

266 person who may be liable for damages under the provisions of
267 subsection (d) of section 1-88. In any such action, the Attorney General
268 may, in the discretion of the court, recover additional damages in an
269 amount not exceeding twice the amount of the actual damages.

270 (2) The Attorney General may bring a civil action to recover
271 damages to the state from any public official or state employee who
272 violates subdivision (2) of subsection (c) of section 1-84, as amended by
273 this act, or from any person who receives such information knowing
274 that the disclosure of such information is prohibited by said
275 subdivision.

276 (d) Any fines, penalties or damages paid, collected or recovered
277 under section 1-88 or this section for a violation of any provision of this
278 part applying to the office of the Treasurer shall be deposited on a pro
279 rata basis in any trust funds, as defined in section 3-13c, affected by
280 such violation.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	4-250
Sec. 2	<i>from passage</i>	4-251
Sec. 3	<i>from passage</i>	4-252
Sec. 4	<i>from passage</i>	1-84(c)
Sec. 5	<i>from passage</i>	1-84(m)
Sec. 6	<i>from passage</i>	1-84
Sec. 7	<i>from passage</i>	1-81b
Sec. 8	<i>October 1, 2005</i>	New section
Sec. 9	<i>from passage</i>	1-89

Statement of Purpose:

To (1) ban all gifts of food, beverages and goods and services to a state employee by a state contractor; (2) prohibit a state official or employee from contracting with a state contractor if the official or employee participated substantially in the bidding or award of the state contract, (3) ensure that state contractors, subcontractors and consultants are familiar with applicable state ethics laws; (4) require state contractors

to disclose in an affidavit all campaign contributions to candidates for state-wide offices; (5) extend the state affidavits and gift ban to all state contractors, contracts where the state receives money and grant contracts to private entities, except those of five thousand dollars or less; (6) prohibit state employees from disclosing confidential information to help a bidder during the competitive bidding process; and (7) authorize the Attorney General to recover damages from any public official or state employee who discloses non-public bidding information to another and from the person who knowingly receives such information in violation of law.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]